GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department –Revision Petition filed by Smt. Lingampalli Usha Rani D/o late L.Venkata Rao, Vijayawada, against the proceedings No.Rc.C5/1841/M/95, dt.04.07.2000 of the District Collector, Krishna, under section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – The matter is remanded back to the District Collector, Krishna – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 14 **Dated: 16-02-2017**

Read the following:

1. Proceedings of the Dist. Collector, Krishna, No.Rc.C5/1841/M/95, dt.04.07.2000.
2. Appeal Petition filed by Smt. Lingampalli Usha Rani D/o late L.Venkata Rao, Office Superinndent, O/o Sr. Divisional Commercial Manager, South Central Railway, Vijayawada, before the Government on 09.08.2000.
3. G.O.Ms.No.94, SW(CV.2) Dept., Dt. 07.08.2002.
4. From the Orders of the APHC., Hyderabad, in WP No.16399 of 2002, dated 27.02.2009.
5. Govt. Letter No.3196/CV.2/2009, S.W.(CV.2)Deptt., dt: 21.04.2009.
6. Written arguments filed by the Appellant before the Government on 27.04.2009 through his Counsel.
7. Govt. Letter No.3196/CV.2/2009, S.W.(CV.2) Deptt., dt:10.06.2010.
8. Govt. Memo No.3196/CV.2/2009, S.W.(CV.2) Deptt., dt:16.04.2013, 31.08.2015, 15.03.2016 & 29.04.2016.

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ORDER:

In the reference 1st read above the District Collector, Krishna has issued orders canceling ST-Konda Kapu Caste Certificate obtained from the then Mandal Revenue Office, Mandavalli in 1982 by Smt. Lingampalli Usha Rani D/o late L.Venkata Rao.

2. In the reference 2nd read above, Smt. Lingampalli Usha Rani D/o late L.Venkata Rao has filed Appeal Petition before the Government against the said proceedings of the District Collector, Krishna. After examining the said Appeal Petition Government have issued orders in the reference 3rd read above by rejecting the Appeal Petition of Smt. Lingampalli Usha Rani D/o late L.Venkata Rao duly confirming the orders passed by the District Collector, Krishna.

3. Aggrieved by the said orders, Smt. Lingampalli Usha Rani has filed W.P. No. 16399/2002 before the Hon'ble High Court of A.P., against the proceedings of the District Collector, Krishna, dated 04.07.2002 as confirmed by the Government vide G.O.Ms.No.94, SW(CV.2) Dept., Dt. 07.08.2002. In the reference 4th read above, the Hon'ble High Court of A.P., while disposing the said W.P., on 27.02.2009 has issued stay orders on the proceedings of the District Collector, Krishna/ G.O. passed by the Government and the matter is remitted to the Government to pass appropriate orders by giving an opportunity to the petitioner and to complete the said exercise on or before 30.04.2009 from the date of receipt of the order.

4. As per the said directions of the Hon'ble High Court of A.P., Hyderabad the Government have decided to review the orders passed in the reference 3rd read above and hearing scheduled on 27.04.2009 and the same was informed to the Appellant and requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the reference 5th read above. The Appellant and Counsel for the Appellant have attended the said hearing schedule and filed written arguments before the Government on 27.04.2009 in the reference 6th read above.

[P.T.O]

5. The said Revision Petition has been posted for hearing on 25.06.2010, 27.04.2013, 19.09.2015, 09.04.2016 & finally on 14.05.2016 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 7th & 8th read above.

6. As per the directions of the Hon'ble High Court of A.P., Hyderabad in WP No.16399 of 2002, dated 270.2.2009, the matter has been taken up for hearing and during the hearings after hearing both the sides and the Government after careful examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant and proceedings of the District Collector, Krishna dated 04.07.2000 & records of the District Collector, Krishna and after hearing the arguments of Appellant & Counsel for the Appellant, the Appellate Authority observed that:

I. The Appellant has claimed that her father belongs to ST-Konda Kapu community and stated that there is no dispute about the social status of her father in Indian Railways.

II. The appellant has stated that she was appointed in the Indian Railways under compassionate grounds upon the death of her father as per the rules in vogue and the appointment is not based on her social status.

III. The appellant has also stated that it is incorrect to state that the appellant stated before the MRO, Vijayawada that her father was given in adoption to Konda Kapus in his childhood and except, the alleged statement given by the appellant before the MRO, Vijayawada, there is no other material to come to a conclusion that the appellant is does not belong to Scheduled Tribe Community.

IV. The RDO, Gudivada has reported that at the time of enquiry of Smt. L. Usha Rani, she has stated that her father (late) Sri Venkata Rao worked in South Central Railway and his caste was recorded as "Konda Kapu" in his service register and he died in the year 1984, his native place was agency area in West Godavari District. The appellant got married to Sri Sasanala Satyanarayna who belongs to 'Kapu' Community. Finally, the RDO,Gudivada has stated that the appellant and his family members left Pulaparru Village of Mandavalli Mandal some 10 years back (i.e) after death of the father of the appellant and therefore, the verification of social status is not possible to conclude her caste status. Further, based on the report of MRO, Vijayawada, the RDO, Vijayawada has reported that the appellant's father is native of Pentapadu Village of Tadepalligudem Taluk of West Godavari District and he originally belongs to 'Kapu' by caste and later he adopted by 'Konda Kapu' people from his childhood and onwards he was continued as 'Konda Kapu' throughout his educational career and employment and the appellant have married her brother- in- law i.e. son of her father's sister, who belongs to 'Kapu' Community. Before the District Scrutiny Level Committee, the appellant has not adduced any evidence that her father belongs to ST-Konda Kapu community. Therefore, the District Collector Krishna has cancelled the appellant caste certificate.

V. Under section 6(3) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

VI. The Appellate Authority has observed that the school certificates of the appellant and her sisters and her brother can't given any weightage as they are generated based on the declaration of the parent. In so far as the service certificate issued by the Divisional Railway Manager, South Central Railway, Vijayawada to the father of the appellant that he worked in Railways and expired while working as Chief Booking Clerk. The said certificate discloses that L. Venkatarao i.e. father of the appellant is ST-Konda Kapu and he was born on 01.06.1936. Further, there is no dispute about the social status of the father of the appellant as the service certificate issued by the Indian Railways to him also contained that he belongs to ST-Konda Kapu community.

[Contd…]

VII. The Appellate Authority has also observed that the District Collector, has not given opportunity to the appellant to substantiate her case, when the father of the appellant is ST-Konda Kapu the case of the appellant deserves to be considered. No doubt the burden is on the plaintiff to prove her caste with reliable evidence. But, the Hon'ble Supreme Court and High Court in several judgments have held that the principles of natural justice shall be followed meticulously and no enquiry shall be held in the absence of the person against whom or in connection with whose case the said enquiry is taken up. In the instant case, the enquiry is alleged to have been held on behind the back of the person affected by the proceedings thereof would be liable for rejection on the ground that the person affected was not given fair and reasonable opportunity and it amounts to violation of principles of natural justice. Further, the appellant claims that she was appointed under compassionate grounds but not under ST quota nor depending on the caste certificate. The Government is of considered view that, fresh enquiry on all the documents in question and by examining the relevant witness is necessary to arrive at the correct conclusion and the decision arrived at in the impugned order is erratic. Therefore the order of the Collector is not sustainable under law.

7. The Government, in exercise of the powers conferred under Section 8(1) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Revision Petition filed by Smt. Lingampalli Usha Rani D/o late L.Venkata Rao is allowed in part and the matter remanded to the District Collector, Krishna for afresh enquiry and give opportunity to the Appellant and to pass an order according to law within 60 days from the date of receipt the order. Hence, Proceedings of the District Collector, Krishna issued vide Rc.C5/1841/M/95, dt.04.07.2000 is hereby set-aside and the matter is remanded to the District Collector, Krishna for afresh enquiry and give opportunity to the Appellant to produce evidences substantiating her ST-Konda Kapu community claim and to pass an order according to law within 60 days from the date of receipt the order.

8. Consequently, the District Collector, Krishna shall take necessary action in the matter.

9. The records (containing R.Dis.C5/1841/M/95, dated 04.07.2000, pages 267 cf) received from District Collector, Krishna is returned herewith in original to District Collector, Krishna and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Krishna (w.e)
(with original records) (BY RPAD)

Smt. Lingampalli Usha Rani D/o late L.Venkata Rao,
H.No.177/E, Satynnarayanapuram,
Railway Colony, Vijayawada-11, Krishna District.

Sri N.Siva Reddy, Advocate,
H.No.5-9-22/26, Adarsh Nagar, Hydrabad-500063.

Copy to :
The Sr. Divisional Personal Officer, DRM's Office,
South Central Railway,Vijayawada Division

The Director, TCR& TI, AP, Hyderabad.
The PS to M(SWE & TWE).
The PS to Prl. Secretary (TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER